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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,231	03/29/2004	Masaakira Horino	042168	9006
38834	7590	10/16/2006	EXAMINER	
WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP 1250 CONNECTICUT AVENUE, NW SUITE 700 WASHINGTON, DC 20036				CLAYTOR, DEIRDRE RENEE
ART UNIT		PAPER NUMBER		
		1617		

DATE MAILED: 10/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

TK

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/811,231	HORINO, MASAAKIRA	
	<b>Examiner</b>	<b>Art Unit</b>	
	Renee Claytor	1617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 29 March 2004.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-16 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 3/29/2004, 11/28/05.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_.

**DETAILED ACTION**

***Priority***

This application claims priority to Japanese application 2003-163893 filed on 6/9/2003. Applicant's priority is acknowledged.

***Claim Rejections – 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-10 and 12-13 rejected under 35 U.S.C. 102(b) as being anticipated by Tapley et al. (U.S. Patent 5,914,101).

Tapley et al. teach a dispersion comprised of a zinc oxide used in cosmetic formulations (ultraviolet light scattering agent) with a silica (inorganic oxide) combined with a dispersing agent (meeting the limitations of claims 1-9; Col. 1-2). A possible dispersing agent used in the composition is xantham gum (further meeting the limitations of claims 1, 4-6, and 9; Examples 3 and 5). The dispersion of Tapley et al. contains at least 40% zinc oxide by weight (meeting the limitation of claim 10; Col. 1, line 46) and 0.2% by weight of the dispersing agent (further meeting the limitation of claim 10; Examples 3 and 5). The particle size of the zinc oxide in the dispersion is in the range of 0.005 to 0.20 micrometer, meeting the limitation of "ultrafine" listed in claims 2 and 7 (Col. 1, lines 30-32). Examples 3-6 detail a preparation of a sunscreen lotion, meeting the limitation of claim 12. It is further taught that it is important for the

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zinc oxide to be dispersed as non-agglomerated particles, especially for use in sunscreens (meeting the limitation of claim 13; Col. 3, lines 55-58).

Claims 1-9, 11, 14, 16 rejected under 35 U.S.C. 102(b) as being anticipated by Showa (WO 01/093812; using EP 1,287,807 as a translation).

Showa et al. teach a cosmetic composition comprised of a silica-coated titanium oxide or a silica-coated zinc oxide (meeting the limitation of claims 1-3, 6-8, and 14) and a dispersing agent, preferably carboxyvinyl polymer (further meeting the limitations of claims 1, 6 and 14 and including claims 4-5 and 9; Pgs. 7-8, paragraphs 0059-0063).

The composition further comprising an ultraviolet light absorbing agent, including absorbers of the benzophenone type, cinnamic acid type and salicylic acid type (meeting the limitation of claims 11 and 16; Pg. 8, paragraph 0067). The composition of includes a liquid form including lotions and creams.

### ***Claim Rejections – 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 15 rejected under 35 U.S.C. 103(a) as being unpatentable over Showa (EP 1,287,807) as applied in the above rejection, in view of Kulkarni et al. (U.S. Patent 5,573,754).

Showa teaches a dispersion comprising silica-coated titanium or zinc oxide and carboxyvinylpolymer as a dispersant as discussed in the above rejection.

Showa does not teach that the dispersant is an alkyl modified carboxyvinylpolymer.

Kulkarni et al. teach a topical composition with enhanced photoprotective properties useful for protecting the skin from ultraviolet irradiation. Within the composition is an alkyl modified carboxyvinylpolymer (Carbopol 1342; see Col. 7, lines 41-43 and Examples 1-3).

Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the teachings of Showa, which teach a composition comprised of an ultraviolet light scattering agent coated with an inorganic oxide and a carboxyvinylpolymer, with the teachings of Kulkarni et al., which teach a sunscreen composition comprised of an alkyl modified carboxyvinylpolymer (Carbopol 1342). One having ordinary skill in the art would have been motivated to do so because Showa and Kulkarni et al. teach a carboxyvinylpolymer and an alkyl modified carboxyvinylpolymer respectively, both of which are taught as suitable dispersing agents; therefore, there would be a reasonable expectation of success to utilize the alkyl modified carboxyvinylpolymer of Kulkarni et al. in the composition of the present invention.

### ***Conclusion***

No claims are allowed.

***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Renee Claytor whose telephone number is 571-272-8394. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreeni Padmanabhan can be reached on 571-272-0629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Renee Claytor



SREENI PADMANABHAN  
SUPERVISORY PATENT EXAMINER